

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI  
JACKSON DIVISION

LIBERTY MUTUAL INSURANCE COMPANY

PLAINTIFF

VS.

CIVIL ACTION NO. 3:09CV701 TSL-JCS

COMET STREET, INC.;  
KENNETH G. ROBERTS AND  
MELISSA ROBERTS

DEFENDANTS

**ANSWER AND AFFIRMATIVE DEFENSES  
OF KENNETH G. ROBERTS AND MELISSA ROBERTS**

Comes now the defendants, Kenneth G. Roberts and Melissa Roberts, by and through counsel, and in answer to the amended complaint filed and exhibited against them by Liberty Mutual Insurance Company answer and respond as follows:

1. Admit.
2. Admit.
3. Admit
4. The Roberts defendants have no knowledge of the allegations contained in paragraph 4 and therefore the allegations are denied.
5. The Roberts defendants have no knowledge of the allegations contained in paragraph 5 and therefore the allegations are denied.
6. The Roberts defendants have no knowledge of the allegations contained in paragraph 6 and therefore the allegation are denied.

**JURISDICTION AND VENUE**

7. Admit.

8. Admit.

**BASIS FOR REQUESTED DECLARATORY RELIEF**

9. The allegations of paragraph 9 do not pertain to these defendants and these defendants have no knowledge of the allegations and therefore they are denied.

10. The allegations of paragraph 10 do not require an answer from these defendants but to the extent it does the defendants have no knowledge of the allegation of paragraph 10 and therefore the allegations are denied.

11. The allegations of paragraph 11 did not require an answer from these defendants but to the extent it does the defendants have no knowledge of the allegations of paragraph 11 and therefore the allegations are denied.

12. Admit.

13. Admit.

14. Admit.

15. Admit.

16. It is admitted that on or about August 4, 2006 the Roberts filed a complaint against Southland Oil Company, now Comet Street, Inc., in the Circuit Court of the First Judicial District of Hinds County, Mississippi and that a true and correct copy of the Circuit Court complaint is attached to the complaint in this case as Exhibit "9"; affirmatively, the allegations contained in the complaint filed by the Roberts in Hinds County Circuit Court allege causes of action which include the cause of action alleged in the complaint identified in paragraph 12 of Liberty Mutual's amended complaint but also contained allegations of the continuing torts of abuse of process and malicious prosecution which continued up until Kenneth Roberts was found not guilty of four counts of embezzlement in the Circuit Court of

Yazoo County, Mississippi and the three counts of embezzlement upon which he was convicted were reversed and rendered by the Mississippi Court of Appeals.

17. The allegations of paragraph 17 are denied.

18. Admit.

19. Deny; affirmatively Roberts' causes of action for malicious prosecution and abuse of process did not mature until he was found not guilty by the Circuit Court of Yazoo County, Mississippi, on four counts of embezzlement and the three counts of embezzlement upon which he was convicted were reversed and rendered by the Mississippi Court of Appeals; therefore, at the time the civil action was filed by Southland Oil Company against Roberts in the Circuit Court of Yazoo County, Mississippi Robert civil causes of action for malicious prosecution and abuse of process had not ripen or matured.

20. Deny; affirmatively, the facts giving rise to Roberts tort claims for malicious prosecution and abuse of process began in October 2002 and continued up until the time of Robert acquittal on four counts of embezzlement and the Court of Appeals reversing and rendering the remaining three counts of embezzlement; further, affirmatively, the statute of limitations did not commence on the continuing torts of abuse of process and malicious prosecution until the prosecutions had terminated in Roberts' favor.

21. The allegations contained in paragraph 21 do not apply to the Roberts defendants and the Roberts defendants are without sufficient knowledge to admit or deny the allegations and therefore the allegations of paragraph 21 are denied.,

22. These defendants are without sufficient knowledge to admit or deny the allegations of paragraph 22 and therefore the allegations are denied.

23. Deny.

24. Deny.

25. Deny.

26. The Roberts defendants are without sufficient knowledge to admit or deny the allegations and therefore the allegations of paragraph 26 are denied.

27. The Roberts defendants without sufficient knowledge to admit or deny the allegations and therefore the allegations of paragraph 27 are denied.

**REQUESTED RELIEF**

28. The Roberts defendants deny that Liberty Mutual is entitled to the relief for which it prays in paragraph number 28, 29, 30 and 31 of the amended complaint and it is further denied that Liberty Mutual is entitled any relief whatsoever.

And now having fully answered the amended complaint filed and exhibited against them Kenneth Roberts and Melissa Roberts respectfully move the court to dismiss the complaint at cost to the plaintiff and that the court will award unto these defendants their reasonable cost including attorney's fees incurred in the defense of this action.

Respectfully submitted,

Kenneth Roberts and Melissa Roberts

BY: /s/ John W. Christopher  
JOHN W. CHRISTOPHER  
Their Attorney

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**CERTIFICATE OF SERVICE**

I hereby certify that on December 21, 2009, I electronically filed the foregoing document with the Clerk of the Court using the ECF system which sent notification of such filing to counsel who have electronically registered with the Court, and I hereby certify that I have mailed by United States Postal Service the document to non-ECF participants. The following is a list of all counsel of record or parties regardless whether notified by the Court or sent via United States Postal Service by this firm:

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THIS the 22nd day of December, 2009

/s/ John W. Christopher  
JOHN W. CHRISTOPHER